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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,918	04/05/2004	Andrew D. Rice	23914.00	3087

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EXAMINER

ABBOTT, YVONNE RENEE

ART UNIT PAPER NUMBER

3644

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/816,918

**Applicant(s)**

RICE, ANDREW D.

**Examiner**

Yvonne R. Abbott

**Art Unit**

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4 and 6-10 is/are rejected.  
7) ☒ Claim(s) 5 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/5/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (733,448). Williams shows a covered animal feeder with mounting brackets comprising a container having a front wall (16), back wall (10), a bottom wall (13), two sidewalls (14,15) joined to form a box with an open top, the front wall having at least one opening (19) defined therein through which an animal can retrieve feed positioned within a container; a cover (18) pivotally attached to the container and closing the open top of the container when in a closed position; at least one mounting bracket (12) secured to the back wall of the container; wherein the container is capable of being mounted to a fence by sliding the bracket onto a top rail of the fence; wherein the container is constructed of a material from the group consisting of plastic, metal and rubber, and the bracket is plastic or metal; wherein the container is dimensioned such that it is capable of receiving hay.

3. Claims 1, 3, 7, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Heinzeroth et al. (6604488). Heinzeroth et al. show a covered animal feeder with mounting brackets comprising a container having a front wall, back wall, a bottom wall, two sidewalls joined to form a box (12) with an open top, the front wall having at least three openings (28) defined therein through which an animal can retrieve feed positioned within a container; a cover (92) pivotally attached to the container and closing the open top of the container when in a closed position; at least one mounting bracket (54) secured to the back wall of the container; wherein the container is capable of being mounted to a fence by sliding the bracket onto a top rail of the fence; wherein the container is constructed of a material from the group consisting of plastic, metal and rubber, and the bracket is plastic or metal; wherein the container is dimensioned such that it is capable of receiving hay.

4. Claims 1, 3, 7, 8 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Elliott (6606962). Elliott shows a covered animal feeder with mounting brackets comprising a container having a front wall, back wall, a bottom wall, two sidewalls joined to form a box with an open top, the front wall having at least one opening defined therein through which an animal can retrieve feed positioned within a container; a cover (230) pivotally attached to the container and closing the open top of the container when in a closed position; at least one mounting bracket (140,150)

secured to the back wall of the container; wherein the container is capable of being mounted to a fence by sliding the bracket onto a top rail of the fence; wherein the container is constructed of a material from the group consisting of plastic, metal and rubber, and the bracket is plastic or metal; wherein the container is dimensioned such that it is capable of receiving hay; and wherein each of the brackets (150) has an inverted "J" shape with a distal leg and a proximal leg, the proximal leg being attached to the back wall.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzeroth et al. Although Henzeroth et al. show a mounted feeder comprising a front wall having at least three openings, the width of the openings is not specifically disclosed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the openings have a width of about seven inches depending upon what size animal one wished to accommodate (i.e. to exclude some animals), or in order to control the feeding of particular animals so that they don't consume too much at once.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzeroth et al. in view of Daifotes (4572108). Heinzeroth et al. show a mounted animal feeder, however, it is not shown that the bottom wall is sloped downward from the back wall to the front wall. Daifotes teaches an animal feeder having a sloped bottom wall (62). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the floor of the Heinzeroth et al. feeder have a sloped wall in order to utilize gravity as an aid in dispensing the feed, or to prevent clogging.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzeroth et al. in view of Markey et al. (5551371). Heinzeroth et al. show a mounted animal feeder, however, it is not shown that the feeder has a side dish extending from a sidewall. Markey et al. teach a box shaped enclosure having a side dish (52) attached to a sidewall. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an additional dish as taught by Markey et al. to the side of the Heinzeroth et al. feeder to provide water, additional supplement, or to feed multiple animals.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heinzeroth et al. in view of Marshall et al. (5272832). Although Heinzeroth et al. show a mounted feeder, it is not shown that the feeder has upper and lower padlock flanges extending from the cover and container, respectively, each flange having an aperture. Marshall et al. teach a container having an apertured padlock flange and a cover having

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an apertured padlock flange. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the feeder of Heinzeroth et al. have a padlock flange as taught by Marshall et al. in order to provide a locking mechanism thereby preventing unauthorized tampering with the feeder contents.

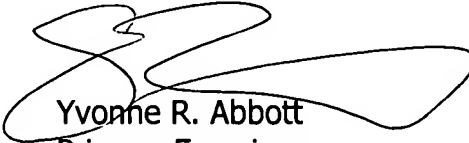
***Allowable Subject Matter***

10. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (703)306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
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